

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EAGLE INVESTORS,

Plaintiff,

vs.

BANK OF AMERICA, N.A., *et al.*,

Defendants.

Case No.: 2:14-cv-00123-GMN-NJK

ORDER

On March 29, 2018, the Court granted summary judgment to Defendants Bank of America, N.A., successor by merger to BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP (“BANA”) and Mortgage Electronic Registration Company System, Inc. (“MERS”) (collectively “Defendants”) because, under *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016), the Northern Terrace Homeowners Association (“HOA”) “foreclosed under a facially unconstitutional notice scheme” and therefore the “foreclosure sale cannot have extinguished” Plaintiff’s deed of trust on the property. (Order 6:15–17, ECF No. 133). The Ninth Circuit has since held, however, that Nevada’s homeowner’s association foreclosure scheme is not facially unconstitutional because the decision in *Bourne Valley* was based on a construction of Nevada law that the Nevada Supreme Court has since made clear was incorrect. *See Bank of Am., N.A. v. Arlington W. Twilight Homeowners Ass’n*, 920 F.3d 620, 624 (9th Cir. 2019) (recognizing that Bourne Valley “no longer controls the analysis” in light of *SFR Investments Pool I, LLC v. Bank of New York Mellon*, 422 P.3d 1248 (Nev. 2018)). Moreover, for orders from this district that relied on *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016), and were thereafter appealed, the Ninth Circuit recently began reversing and remanding such orders in

1 light of *Bank of Am., N.A. v. Arlington W. Twilight Homeowners Ass'n*, 920 F.3d 620, 624 (9th
2 Cir. 2019). *See, e.g., U.S. Bank, N.A. v. SFR Investments Pool 1, LLC*, No. 18-16006, 2019 WL
3 6817304, at *1 (9th Cir. Dec. 13, 2019).

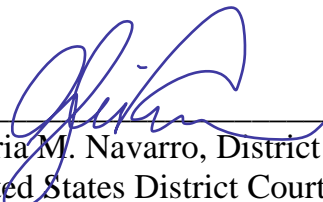
4 Accordingly, to preserve judicial resources, the Court expresses its willingness to
5 reconsider or vacate its prior Order, (ECF No. 133).¹ Accordingly, if the Court of Appeals for
6 the Ninth Circuit remands this case in light of this Order,

7 **IT IS HEREBY ORDERED** that the parties shall have thirty days from the date of
8 remand to file renewed dispositive motions.

9 **IT IS FURTHER ORDERED** that the Court's prior order, (ECF No. 137), is now
10 amended to conform with this Order.

11 The Clerk of Court shall deliver a copy of this Order to the United States Court of
12 Appeals for the Ninth Circuit, Appeal Number 18-15631.

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14 **DATED** this 23 day of December, 2019.

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17 _____
18 Gloria M. Navarro, District Judge
19 United States District Court
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21 ¹ The Court previously vacated its Order, (ECF No. 133), through a later Order filed on December 18, 2019.
22 (See Order, ECF No. 137). However, because this Court lacks jurisdiction over the aspects of the case properly
23 involved in the current appeal, the Court now **AMENDS** the December 18, 2019 Order, (ECF No. 137), in part
24 to indicate the Court's willingness to reconsider or vacate the prior judgment upon remand pursuant to Federal
25 Rule of Civil Procedure 62.1. *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (holding that
the filing of a notice of appeal "confers jurisdiction on the court of appeals and divests the district court of its
control over those aspects of the case involved in the appeal"); *Mendia v. Garcia*, 874 F.3d 1118, 1121 (9th Cir.
2017) (remanding to district court to permit reconsideration of the judgment pursuant to Fed. R. Civ. P. 62.1 and
Fed. R. App. P. 12.1).